

## § 208.26

before the Medication Guide may be distributed.

(b) Each manufacturer who ships a container of drug product for which a Medication Guide is required under this part is responsible for ensuring that Medication Guides are available for distribution to patients by either:

(1) Providing Medication Guides in sufficient numbers to distributors, packers, or authorized dispensers to permit the authorized dispenser to provide a Medication Guide to each patient receiving a prescription for the drug product; or

(2) Providing the means to produce Medication Guides in sufficient numbers to distributors, packers, or authorized dispensers to permit the authorized dispenser to provide a Medication Guide to each patient receiving a prescription for the drug product.

(c) Each distributor or packer that receives Medication Guides, or the means to produce Medication Guides, from a manufacturer under paragraph (b) of this section shall provide those Medication Guides, or the means to produce Medication Guides, to each authorized dispenser to whom it ships a container of drug product.

(d) The label of each container or package, where the container label is too small, of drug product for which a Medication Guide is required under this part shall instruct the authorized dispenser to provide a Medication Guide to each patient to whom the drug product is dispensed, and shall state how the Medication Guide is provided. These statements shall appear on the label in a prominent and conspicuous manner.

(e) Each authorized dispenser of a prescription drug product for which a Medication Guide is required under this part shall, when the product is dispensed to a patient (or to a patient's agent), provide a Medication Guide directly to each patient (or to the patient's agent) unless an exemption applies under § 208.26.

(f) An authorized dispenser or wholesaler is not subject to section 510 of the Federal Food, Drug, and Cosmetic Act, which requires the registration of producers of drugs and the listing of drugs in commercial distribution, solely because of an act performed by the au-

thorized dispenser or wholesaler under this part.

## § 208.26 Exemptions and deferrals.

(a) FDA on its own initiative, or in response to a written request from an applicant, may exempt or defer any Medication Guide content or format requirement, except those requirements in § 208.20 (a)(2) and (a)(6), on the basis that the requirement is inapplicable, unnecessary, or contrary to patients' best interests. Requests from applicants should be submitted to the director of the FDA division responsible for reviewing the marketing application for the drug product, or for a biological product, to the application division in the office with product responsibility.

(b) If the licensed practitioner who prescribes a drug product subject to this part determines that it is not in a particular patient's best interest to receive a Medication Guide because of significant concerns about the effect of a Medication Guide, the licensed practitioner may direct that the Medication Guide not be provided to the particular patient. However, the authorized dispenser of a prescription drug product subject to this part shall provide a Medication Guide to any patient who requests information when the drug product is dispensed regardless of any such direction by the licensed practitioner.

## PART 209—REQUIREMENT FOR AUTHORIZED DISPENSERS AND PHARMACIES TO DISTRIBUTE A SIDE EFFECTS STATEMENT

### Subpart A—General Provisions

Sec.

209.1 Scope and purpose.

209.2 Definitions.

### Subpart B—Requirements

209.10 Content and format of the side effects statement.

209.11 Dispensing and distributing the side effects statement.

AUTHORITY: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360, 371; 42 U.S.C. 241.

SOURCE: 73 FR 404, Jan. 3, 2008, unless otherwise noted.